

Law Offices of

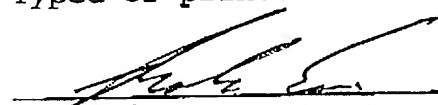
SENNIGER POWERS

One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102Telephone (314) 231-5400
Facsimile (314) 231-4342

FACSIMILE TRANSMITTAL COVER SHEET

DATE: July 26, 2004 ATTORNEY DOCKET NUMBER: GETS 5307.1
PTO FACSIMILE NUMBER: (703) 305-8568PLEASE DELIVER THIS FACSIMILE TO: Office of Publication
THIS FACSIMILE IS BEING SENT BY: Frank R. Agovino
NUMBER OF PAGES: 3 INCLUDING COVER SHEETTIME SENT: 6:35 PM OPERATOR'S NAME Jessica M. Dunn

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to
the Patent and Trademark Office on the date shown below.Robert O. Enyard
Typed or printed name of person signing certification
Signature Date 7/26/04Type of paper transmitted: NOTICE OF FILING IN 18-MONTH
PUBLICATION JURISDICTION (37 C.F.R. 1.213 (C)) AND RESCISSION OF
PREVIOUS NON-PUBLICATION REQUEST UNDER 35 U.S.C. §122(b)(2)(B)(ii)Applicant's Name: Shea et al.Serial No. (Control No.): 10/689,806 Examiner: N/AFiling Date: October 21, 2003 Art Unit: 3746Application Title: APPARATUS AND METHOD FOR AUTOMATIC DETECTION
AND AVOIDANCE OF TURBOCHARGER SURGE ON LOCOMOTIVE DIESEL ENGINESIF YOU DO NOT RECEIVE ALL PAGES CLEARLY, CALL BACK AS SOON AS
POSSIBLE. CONFIRMING NUMBER IS (314) 231-5400.

124858/GETS 5307.1
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit 3746

Application of Shea et al.

Serial No. 10/689,806

Filed 10/21/03

Confirmation No. 4367

For APPARATUS AND METHOD FOR AUTOMATIC DETECTION AND
AVOIDANCE OF TURBOCHARGER SURGE ON LOCOMOTIVE DIESEL
ENGINES

July 26, 2004

**NOTICE OF FILING OF INVENTION IN 18-MONTH PUBLICATION
JURISDICTION (37 C.F.R. 1.213(c))
AND
RESCISSION OF PREVIOUS NON-PUBLICATION REQUEST
UNDER 35 U.S.C. § 122(b) (2) (B) (ii)**

Mail Stop PG Pub
Commissioner for Patents
P.O. BOX 1450
Alexandria, Virginia 22313-1450

PROCESSED BY
PG PUB DIVISION

JUL 27 2004

SIR:

Upon filing the above-identified application, Applicants submitted a request for nonpublication. In accordance with the requirements of 37 C.F.R. § 1.213(c), Applicants hereby notify the Office that an application directed to the invention disclosed in the above referenced U. S. application was filed on June 4, 2004 in the Chinese Patent Office.

Applicants recognize that under 35 U.S.C. § 122(b)(2)(B)(iii) this notice should be provided no later than forty-five (45) days after the date of such foreign filing. Applicants further recognize that under 35 U.S.C. § 122(b)(2)(B)(iii) after the prescribed 45 day period the application shall be "regarded as being abandoned, *unless shown to the satisfaction of the of the Director that the delay was unintentional*" (emphasis added). Applicants request that this Notice be considered as satisfying the Director that the delay was unintentional according the exception specified by the emphasized language of 35 U.S.C. § 122(b)(2)(B)(iii).

The undersigned became aware of the foreign filing date for the first time on July 26, 2004. Moreover, although the notice is being provided beyond the forty-five (45) day time period, it is being provided within fifty-two (52) days of the foreign filing. Because the delay was unintentional and is only seven (7) days beyond the prescribed 45-day

124858/GETS 5307.1
PATENT

period, Applicants hereby request recession of the previously filed non-publication request.

Thus, on behalf of the Applicants, the undersigned submits that the failure to notify the Director within the prescribed time period was unintentional. Accordingly, this application is covered by the exception specified in 35 U.S.C. § 122(b)(2)(B)(iii) and the application should not be regarded as being abandoned.

Alternatively, if the above explanation of the delay does satisfy the Director that the delay was unintentional, Applicants simultaneously submit herewith a conditional Petition to Revive an Application for Patent Abandoned Unintentionally.

Respectfully submitted,



Frank R. Agovino, Reg. No. 27,416
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400